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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/967, 473 11/11/97 HABING

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EXAMINER

QM32/0805

CROW, S

ART UNIT

PAPER NUMBER

3764

DATE MAILED:

08/05/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks***08/967,473*

<b>Office Action Summary</b>	Application No. <b>08/967,473</b>	Applicant(s) <b>Habing et al</b>
	Examiner <b>S. Crow</b>	Group Art Unit <b>3764</b>

Responsive to communication(s) filed on May 24, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

Claim(s) 1-30 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) 1-30 is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Reissue Applications***

1. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

### ***Allowable Subject Matter***

2. Claims 1-30 avoid the prior art of record.

### ***Response to Arguments***

3. Applicant's arguments filed 5-24-99 have been fully considered .  
The examiner disagrees with applicant's assessment that the foot supports are movable through a generally elliptical path because a generally elliptical path can be drawn inside the depicted curves. This conclusion doesn't follow from the facts. A rectangular path can also be drawn within the depicted curves but reasoning does not follow that the foot supports are movable through a rectangular path. It appears that there are linear parts of the curves (path a-b

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as shown in figure 2). The examiner will agree that the curved path is generally elliptical as shown by the figures. This path is not the same path as does defined by the prior art elliptical devices which have substantially elliptical paths.

*Specification*

4. The disclosure is objected to because the specification must refer to the “generally elliptical” path as recited by the claims. Correction is required.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Crow whose telephone number is (703) 308-3398.

*SR Crow*  
**STEPHEN R. CROW**  
**PRIMARY EXAMINER**  
**ART UNIT 332**